

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>In re:</b>	)	<b>Chapter 11 Proceeding</b>
	)	
<b>Joseph Carmen DiCaro</b>	)	<b>Case No. 08-32682</b>
	)	
<b>Debtor.</b>	)	<b>Hon. John H. Squires</b>
	)	

**NOTICE OF MOTION AND HEARING ON PROFESSIONALS'  
FIRST AND FINAL APPLICATION FOR ALLOWANCE AND PAYMENT  
OF COMPENSATION AND REIMBURSEMENT OF EXPENSES**

TO: All Creditors and Parties in Interest

**PLEASE TAKE NOTICE THAT** on November 28, 2008, Joseph Carmen DiCaro (the "Debtor") filed for Chapter 11 bankruptcy relief under title 11 of the Bankruptcy Code. On January 22, 2009, an Order was entered Authorizing the Employment and Retention of Gregory J. Jordan and the law firm of Apostol, Kowal & Jordan, Ltd. ("AKJ") as the Counsel for the Debtor effective as of November 28, 2008 (Docket #28).

**PLEASE TAKE FURTHER NOTICE** that on April 23, 2009 AKJ, filed the First and Final Application of Apostol, Kowal & Jordan, Ltd., Counsel to the Debtor, for Compensation and Expenses (the "Application") requesting compensation sought as actual, reasonable and necessary in the amount of \$43,852.50 and expense reimbursement sought as actual, reasonable and necessary in the amount of \$1,568.77 for the period between November 1, 2008 and April 23, 2009.

**PLEASE TAKE FURTHER NOTICE** that the hearing on the Application is scheduled for May 21, 2009 at 9:30 a.m. in Courtroom 680, 219 South Dearborn Street, Chicago, Illinois before the Honorable John H. Squires, or any judge sitting in his stead.

Date: April 23, 2009

Respectfully submitted,

**APOSTOL, KOWAL & JORDAN, LTD.**

By: /s/ Gregory J. Jordan  
One of Its Shareholders

**CERTIFICATE OF SERVICE**

I, Gregory J. Jordan, certify that I served the Notice of Motion and Hearing on Professionals' First and Final Application for Allowance and Payment of Compensation and Reimbursement of Expenses ("Notice of Motion") on all creditors and parties in interest and served the Notice of Motion and the First and Final Application by Apostol, Kowal & Jordan, Ltd., Counsel to The Debtor, for Compensation and Expenses on the persons listed on the Service List via United States mail postage prepaid by placing the same for delivery with the claims agent appointed in this case and by ECF filing and electronic transmittal as indicated, on April 23, 2009.

\_\_\_\_\_/s/ Gregory J. Jordan\_\_\_\_\_

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Mark Zito (ARDC# 6276231)  
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COUNSEL FOR THE DEBTOR AND DEBTOR IN POSSESSION

**SERVICE LIST**

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Oak Brook, IL 60525

AT&T  
PO Box 6428  
Carol Stream, IL 60197-6428

AT&T Home  
P.O. Box 8100  
Aurora, IL 60507-8100

Capital One  
PO Box 790216  
Saint Louis, MO 63179-0216

Capital One  
c/o TSYS Debt Management  
PO Box 5155  
Norcross GA 30091

Chase  
PO Box 659409  
San Antonio, TX 78265

Chase Home Finance LLC  
c/o Christopher M. Brown  
Pierce & Associates, P.C.  
1 North Dearborn St., Ste 1300  
Chicago IL 60602

Citibank  
PO Box 688902  
Des Moines, IA 50368-8902

ComEd Claims Department  
4th Floor, Three Lincoln Center  
Villa Park, IL 60181

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Illinois Department of Revenue  
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Illinois Department of Revenue  
Bankruptcy Unit  
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Chicago, IL 60606

Nicor Gas  
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Naperville, IL 60563

Planet Toyota  
5540 Auto Court  
Matteson, IL 60443

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>In re:</b>	)	<b>Chapter 11 Proceeding</b>
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<b>Joseph Carmen DiCaro</b>	)	<b>Case No. 08-32682</b>
	)	
<b>Debtor.</b>	)	<b>Hon. John H. Squires</b>
	)	

**FIRST AND FINAL APPLICATION BY APOSTOL, KOWAL & JORDAN, LTD.,  
COUNSEL TO THE DEBTOR, FOR COMPENSATION AND EXPENSES**

Counsel for the Debtor, Gregory J. Jordan and the shareholders and independent contractors of Apostol, Kowal & Jordan, Ltd. (“AKJ”), file the First and Final Application for Compensation and Reimbursement of Expenses (the “Application”) pursuant to §§ 328, 330, 331, 503(b)(1) of the United States Bankruptcy Code (11 U.S.C. §101 et.seq., hereinafter the “Bankruptcy Code”<sup>1</sup>), Rule 2016 of the Federal Rules of Bankruptcy Procedure (hereinafter the “Bankruptcy Rules”), and Rule 5082-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Northern District of Illinois for allowance and payment of (i) compensation in the amount of \$43,852.50 for 104.90 hours of reasonable and necessary legal services that AKJ has rendered for the period between November 28, 2008 and April 23, 2009 (the “Application Period”) to the Debtor (“Fees”); (ii) the reimbursement of the actual and necessary expenses that AKJ has incurred (the “Expenses”) in the amount of \$1,568.77 during the Application Period; and (iii) immediate payment of allowed fees and expenses from the Debtor’s accounts.

In support of the Application, AKJ states:

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<sup>1</sup> All references in this Application to any “§” shall be a reference to that section of the Bankruptcy Code

### **BACKGROUND**

1. On November 28, 2008 (the "Petition Date"), the Debtor filed with this Court his Voluntary Petition for relief under the Bankruptcy Code.
2. Pursuant to §§ 1107(a) and 1108, the Debtor continues to operate his businesses and manage his financial affairs as a debtor in possession. The United States Trustee has appointed an Official Committee of Unsecured Creditors. No trustee or examiner has been appointed in this case.
3. The Debtor conducts business as a licensed commodities broker in Chicago, Illinois.
4. The Debtor filed his chapter 11 case, so he could implement a plan to pay tax debts and control the restructuring of his debts through a plan of reorganization.

### **SELECTION OF COUNSEL**

5. The Debtor filed his initial bankruptcy case in 2007 and selected Gregory Jordan as his counsel while he was a shareholder with the firm of Polsinelli, Shalton, Flanigan & Suelthaus, PC. Mr. Jordan relocated his practice effective November 1, 2008. The Debtor requested that Jordan and his new firm serve as his bankruptcy counsel and retained him and AKJ for that purpose.
6. By an order entered on the docket on January 22, 2008, the Bankruptcy Court authorized AKJ's retention effective as of November 28, 2008 (Docket #28), pursuant to. §§327 and 1103.
7. This is AKJ's first and final Application for the payment of his fees and expenses and AKJ submits this Application pursuant to the Federal Rules of Bankruptcy Procedure and all applicable local rules.

8. Attached hereto as **Exhibit A** is a schedule summarizing the number of hours worked and the total dollars billed for services during the Application Period. The fees and expenses sought for the Application Period are included as part of this Application and in the summary. The detailed records with respect to such fees are attached hereto as **Group Exhibit B**. For this Application Period, AKJ has incurred a total of \$43,852.50 for legal services rendered and \$1,568.77 for actual and necessary out-of-pocket expenses incurred on behalf of the Debtor.

**PROFESSIONAL SERVICES RENDERED**

9. AKJ has assisted the Debtor in the performance of his duties pursuant to §§1107 and 1108 including advising the Debtor regarding legal matters including preparation of his schedules, preparation for and attendance at the first meeting of creditors in the case, preparation of a plan of reorganization, participating in court hearings, drafting various pleadings, participating in meetings, consulting with the Debtor, counsel for various creditors, creditors and other parties in interest and generally representing the interests of the Debtor in this chapter 11 case.
10. During the Application Period, AKJ billed a total of 104.90 hours.
11. To assist the Court, creditors and other parties in interest to evaluate this fee application and determine the reasonableness of the requested compensation and cost reimbursement, AKJ assigned a matter number for each of the four categories of services. **Group Exhibit B** attached hereto describes each activity or service performed; and states the number of hours (in increments of one-tenth of an hour) spent providing the services.

**SERVICES RENDERED BY MATTER CATEGORIES**

12. The professional services that AKJ rendered are grouped into titled categories of the subject matters described below.

a. Category 1 - Case Administration

Time spent in this category relates to the administrative tasks related to case management, including: (i) preparing for and participating in the first meeting of creditors and other meetings; (ii) communications with the Debtor; (iii) communications with creditors; (iv) coordination with the U.S. Trustee; and (v) communicating with the claims agent; and communicating with other professionals. The average hourly billing rate is \$425.

Professional/Position	Hours	Rate	Fee
Gregory J. Jordan (Partner)	23.20	\$425.00	\$9,860.00

b. Category 2 - Services Related to Schedules

AKJ worked with the Debtor's representatives in the preparation of schedules and related matters. The average hourly billing rate is \$425.

Professional/Position	Hours	Rate	Fee
Gregory Jordan (Partner)	12.80	\$425.00	\$5,440.00

c. Category 3 – Services Related to Motions

Time spent in this category relates to the drafting, review and presentation of all motions filed in the case and appearing with regard to the same. The average hourly billing rate is \$425.00.

Professional/Position	Hours	Rate	Fee
Gregory Jordan (Partner)	8.50	\$425.00	\$3,612.50

d. Category 4 – Services Related to Plan

Counsel's work in this category concern the drafting of the disclosure statement and plan and working with the Debtor's representatives, the Debtor's accountant and the Committee and counsel to maximize the return to creditors. The average hourly billing rate is \$412.91.

Professional/Position	Hours	Rate	Fee
Gregory Jordan (Partner)	53.10	\$425.00	\$22,567.50
Mark Zito (of Counsel)	7.30	\$325.00	\$ 2,373.00
TOTAL:	60.40		\$24,940.00

**ACTUAL AND NECESSARY EXPENSES**

13. It is AKJ's policy to charge its clients for certain non-overhead expenses incurred in connection with the case that would not have been incurred except for representation of that particular client. It is also AKJ's policy to charge its clients only the amount actually incurred by AKJ in connection with such items, which include, but are not limited to, filing fees, mail charges, PACER charges and photocopying charges at ten cents per copy.
14. The reimbursement of expenses requested by AKJ are those expenses normally billed to the firm's clients in other cases. Billing for these expenses is the standard practice for the law firms involved with providing advice to unsecured creditors Debtors. The expenses and disbursements for which allowance is set forth by date and description on **Group Exhibit B** attached hereto, and total \$1,568.77.

**STANDARDS FOR APPROVAL OF APPLICATION**

15. §330(a) sets forth the applicable standards for compensation of retained professionals.
16. The rates charged by AKJ in this Application are the usual and customary hourly rates charged by AKJ to other clients. These rates are comparable with, or lower than, the

rates generally charged by other Chicago law firms that provide legal services in connection with representation of Debtors. The amounts requested are fair and reasonable given (a) the complexity of this case; (b) the time expended; (c) the nature and extent of the services rendered; (d) the value of such services; and (e) the costs of comparable services other than in a case under the Bankruptcy Code.

17. Without the filing of this bankruptcy case and the efforts of AKJ, any recovery for unsecured creditors would be extremely unlikely.
18. AKJ submits that an award of its compensation and expense reimbursement, as requested, is appropriate in the circumstances of this case.
19. Each of the professionals in this case are shareholders of or affiliated with AKJ in this and other matters. No agreement exists between AKJ and any third party for the sharing of compensation received by AKJ in connection with this case, except as allowed by United States §504 of the Bankruptcy Code and Rule 2016 of the federal Rules of Bankruptcy Procedure with respect to the sharing of compensation among the shareholders, associates and of counsel of AKJ.
20. This is AKJ's first and final fee Application in this case. Previous compensation has not been sought.

#### **BIOGRAPHICAL INFORMATION**

21. Gregory Jordan, the primary attorney responsible for this matter, focused his law practice on the representation of parties in Chapter 11 cases including related litigation. Mr. Jordan has practiced law generally and in this area of the law since 1984. He has represents several debtors in successful Chapter 11 cases along with the representation of

lenders, official committees of unsecured creditors and other parties in various bankruptcy cases in this district and throughout the country.

22. Joel Koppenhoefer is an attorney focusing his practice in the areas of corporate finance and litigation. Mr. Koppenhoefer works with AKJ as an independent contractor and is engaged primarily for litigation matters related to issues relating to the relationship between the Debtor and the holders of participation interests along with preference and fraudulent transfer issues.
23. Mark Zito is an attorney practicing in the areas of bankruptcy and litigation. Mr. Zito is engaged as an independent contractor by AKJ and is focusing his efforts on plan and other reorganization issues.

#### **NOTICE**

24. Pursuant to Rule 2002(a)(6) of the Bankruptcy Rules, AKJ has provided notice of this Application and the hearing on the Application to all creditors and parties in interest. AKJ has served a copy of this Application on the twenty largest creditors, counsel for the Office of the United States Trustee, counsel for the Committee and on all counsel appearing or requesting notice of the filing of pleading in this case.

#### **NO PRIOR RELIEF**

25. No prior application for the relief requested herein has been made to this or any other court.

WHEREFORE, AKJ respectfully requests that the Court enter an order:

- a. granting AKJ an allowance of final compensation for professional fees in the amount of \$43,852.50 incurred during this Application Period;

- b. granting AKJ an allowance of expense reimbursement in the amount of \$1,568.77 incurred during this Application Period;
- c. entry of an order authorizing and directing payment of the allowed fees and costs by the Debtor; and
- d. granting AKJ such other and further relief as may be just.

Date: April 23, 2009

Respectfully submitted,

**APOSTOL, KOWAL & JORDAN, LTD.**

By: /s/ Gregory J. Jordan  
One of Its Shareholders

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COUNSEL FOR THE DEBTOR AND DEBTOR IN POSSESSION